

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1 and 16 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-9, 11-17 and 19-24 are now pending in this application.

The most recent official action was issued on December 21, 2005, exactly twenty months after Applicant filed an Appeal Brief arguing against the Examiner's prior rejections.¹ In the most recent official action, the Examiner rejected claims 1-9, 11-15, 17, 19-21 and 23-24 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,802,942 in view of U.S. Patent No. 3,108,349, issued to Takacs. Claims 16 and 22 were rejected as being unpatentable over the Cornell et al. and Takacs references in view of U.S. Patent No. 4,967,628, issued to Judd et al. In each of these rejections, the Examiner has taken the position that the Takacs reference teaches the use of slots with varying widths, and that it would therefore have been obvious to combine this feature with the Cornell et al. reference.

Applicant respectfully traverses these rejections. In particular, Applicant submits that one skilled in the art would not have been motivated to make the combination taught by the Examiner. The Takacs reference teaches the use of a build-up plate that includes a plurality of spaced-apart parallel grooves therein. However, and like the Cornell et al. reference discussed at

¹ According to Section 1208 of the Manual of Patent Examining Procedure, an Answer to the Appeal Brief should have been filed within 2 months after receipt of the brief.

length in prior communications, the Takacs reference does not teach or suggest an arrangement that impedes a carrier from being removed from a slot in one location but not another. In the Takacs reference, it is noted that the grooves are preferably “only deep enough to receive the unsupported end of the blade” (col.4, ll. 40-42) (emphasis added). In other words, the grooves taught by the Takacs reference are not even intended to interact with a carrier at all, much less selectively impede its movement away from the grooves at any time. Therefore, the Takacs reference explicitly teaches away from making the combination suggested by the Examiner, as it actually teaches not having the carrier received in the slot. For this reason, it cannot be suggested that the Takacs reference teaches the selective impeding of the carrier, when only the blade fits within the slot. Without any clear teaching that modifying the width of the slot would provide the benefit of selectively impeding the carrier from being removed, it is improper to assert that one skilled in the art would be motivated to make such a combination, particularly when one of the two references teaches against interacting a carrier with a slot.

The Examiner’s comments regarding the Takacs reference are largely irrelevant to the issues in the present case and also actually underscores the weakness in the Examiner’s argument. In supporting this combination, the Examiner asserted that “Takacs teachings seem to suggest that such a configuration allows for the benefit of self-alignment of the cutting means or carrier. Thus, it would have been obvious...to provide the device of Cornell et al. with the first width, larger than the second width as taught and suggested by Takacs in order to facilitate self alignment of the carrier in preparation for the cutting operation.” First of all, the issues in the present application have nothing to do with self-alignment. The primary issue in the present application focuses on whether one would be motivated to include a slot of differing widths so as to selectively prevent the carrier from being removed. In the case of the Takacs reference, there is absolutely no motivation discussed or relied upon by the Examiner for this feature. In fact, the Takacs reference provides absolutely no guidance as to this point. As the end of the blade is the only item which fits within the grooves of the Takacs reference, it is just as easy to remove the blade from the grooves in the narrow portion of the grooves as it is in the wider portions. Therefore, the Examiner cannot say that this feature is taught in the Takacs reference.

Furthermore, it is noteworthy that the Examiner has stated that the Takacs reference “seems” to accomplish a certain function. If even the Examiner is not certain whether the reference actually teaches this function or not, then Applicant does not understand how the Examiner could suggest that one skilled in the art would understand this feature and use it as suggested.

Notwithstanding the above, Applicant has made a number of minor amendments to claim 1 in order to address issues previously raised by the Examiner. In particular, Applicant has amended claim 1 to describe the carrier as being sized to be removed from the slot in a direction away from the lower surface when positioned adjacent the first width of the slot and impeded from being removed in a direction away from the lower surface when positioned adjacent the second width of the slot. In prior communications, the Examiner noted some ambiguity regarding the phrase “to be removed” and “impeded from being removed,” and this language is intended to clarify this issue. Notwithstanding the above comments, Applicant notes that none of the references cited by the Examiner teach an arrangement where a carrier may be removed from a slot in a direction away from the lower surface when positioned adjacent the first width of the slot and impeded from being removed in a direction away from the lower surface when positioned adjacent the second width of the slot.

For all of the above reasons, Applicant submits that independent claim 1 and its respective dependent claims are allowable over the cited prior art.

In the case of independent claims 17 and 24, Applicant submits that the Examiner has continued to fail to meet his burden in showing that every feature of the claims is taught by the prior art. In particular, both claims 17 and 24 describe the carrier as including a foot extending from a top flange and being slidably received within the slot. With regard to claim 17, the claim further recites that the foot is incapable of being removed from the slot when the carrier is positioned adjacent the maximum width of the slot. These features are not taught or even hinted at in any of the prior art cited by the Examiner. However, the Examiner has repeatedly failed to

point with particularity where these features can be found in the prior art.² In the prior official actions, the Examiner's complete comments as to the presence of this feature in the Cornell reference was "See whole patent." In the most recent action, the Examiner did not even include these words, instead ignoring the feature entirely. In each of these instances, such language falls far short of meeting the Examiner's burden on this issue. Unless the Examiner can point with particularity to where the Cornell reference describes a foot as described in claims 17 and 24, the Examiner's rejection is wholly improper. Therefore, Applicant submits that claims 17 and 24, as well as their respective dependent claims, are patentable over the cited prior art.

Lastly, it is also noted that claim 16 has been amended to replace the word "rotably" with "rotatably." This amendment is being made for clarification purposes only and is not intended to alter the scope of the claim in any way.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. Furthermore, due to the fact that the Examiner waited over 1.5 years to issue the most recent action, Applicant requests the courtesy of a telephonic interview among the Examiner, an attorney for Applicant, and the Examiner's supervisor before any new action is issued.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1450. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1450. If any extensions of time are needed for timely acceptance of papers

² Shortly before the December 21, 2005 Official Action, the Examiner and Marshall Brown, attorney for Applicant, had a number of telephonic conversations in an attempt to resolve the then-outstanding issues. During these conversations, Mr. Brown asked the Examiner to identify the presence of such a foot in the Cornell et al. reference. The Examiner never made such an identification.

submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extension fees to Deposit Account No. 06-1450.

Respectfully submitted,

Date March 20, 2006

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